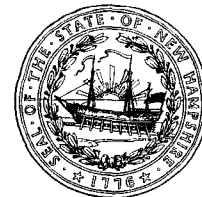




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

September 15, 2006

Mr. Michael Michalenoick
109 Eastman Hill Road
Lebanon, New Hampshire 03766

CERTIFIED MAIL (7005 1160 0004 7468 0038)
RETURN RECEIPT REQUESTED
NOTICE OF PAST VIOLATION

RE: Non-Conforming Open Burning
100 Eastman Hill Road, Lebanon, NH

Dear Mr. Michalenoick:

On August 22, 2006, the New Hampshire Department of Environmental Services, Air Resources Division ("DES") was notified by the Department of Resources and Economic Development ("DRED") that non-conforming materials had been burned at your property located at 100 Eastman Hill Road in Lebanon, New Hampshire ("the Property"). DRED reported that the Lebanon Fire Department ("LFD") responded to the fire and identified you as being responsible for the burning.

On August 22, 2006, DES received a copy of the incident report and photographs of the burn pile taken by the LFD. The photographs clearly show non-conforming material, including stumps and wood greater than five inches in diameter in the burn pile on the Property.

The information submitted shows that you obtained a burn permit from the LFD for the purpose of burning brush at the Property on August 19-20, 2006. The information provided to DES by DRED and LFD officials indicated that the burning was not done in conformance with the N.H. Code of Administrative Rules, Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution* and RSA 125-C. As a result of the information gathered, DES has determined that violations occurred.

The purpose of this letter is to notify you of the violation that took place on August 20, 2006, as well as the requirements surrounding open burning, so that you can prevent future violations. The specific violation is as follows:

Env-A 1001.04 states that open burning in any part of the state shall be permissible only when the burning is authorized by an official having jurisdiction over open burning, whenever authorization is required, and includes only materials burned in conformance with the rules. Env-A 1001.05(d) allows periodic on-site burning of brush by the landowner provided the material originates on-site. Env-A 1001.03(a) defines "brush" as tree tops, limbs, saplings, and tree cuttings that are five inches in diameter or less. On August 20, 2006, the Lebanon Fire Department observed you burning non-conforming material, specifically, stumps and logs up to two feet in diameter.

Since the burning of non-conforming materials has ceased, DES believes that no further action is required at this time in response to the listed violations. However, in the event that additional violations are identified, DES may take action, including issuing an administrative order, seeking administrative fines, and/or referring this matter to the New Hampshire Department of Justice for civil and/or criminal penalties.

If you believe that DES has cited these violations in error, or have questions regarding these matters, please contact Barbara Hoffman at (603) 271-7874, Air Resources Division, Compliance Bureau. A current copy of the Air Resources Division rules can be obtained from the DES website at <http://www.des.nh.gov/rules/air.htm> or by contacting the Public Information Center at (603) 271-2975.

Sincerely,

A handwritten signature in black ink, appearing to read "COPY" with a stylized flourish extending to the right.

Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/asb

Enc. Env-A 1001, *Open Burning*

cc: R. Kurowski, EPA Region 1
G. Hamel, DES Legal Unit Administrator
Douglas Miner, DRED
Andrew White, Fire Captain, City of Lebanon
Gregg Mandsager, Lebanon City Manager
File